

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARIA J. TRAINOR,

Plaintiff,

v.

CAROLYN W COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 14-cv-05122 JRC

ORDER GRANTING MOTION FOR
ATTORNEY'S FEES PURSUANT
TO 42 U.S.C. § 406(b)

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, Dkt. 5; Consent to Proceed Before a United States Magistrate Judge, Dkt. 6). This matter is before the Court on plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) (*see* Dkt. 34). Defendant has no objection to plaintiff's request (*see* Dkt. 37).

The Court may allow a reasonable fee for an attorney who represented a Social Security Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v. Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first

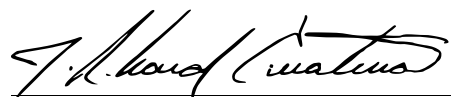
1 to such agreement and will conduct an independent review to assure the reasonableness of the
2 fee requested, taking into consideration the character of the representation and results achieved.
3 *See Grisbrecht, supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the
4 fee agreement is the primary means for determining the fee, the Court will adjust the fee
5 downward if substandard representation was provided, if the attorney caused excessive delay, or
6 if a windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151
7 (9th Cir. 2009) (*citing Grisbrecht, supra*, 535 U.S. at 808).

8 Here, the representation was standard, at least, and the results achieved excellent (*see*
9 Dkt. 35, Attachment 1). *See Grisbrecht, supra*, 535 U.S. at 808. This Court ordered that this
10 matter be reversed and remanded with a direction to award benefits (*see* Dkt. 29). There has not
11 been excessive delay and no windfall will result from the requested fee.

12 The Social Security Administration has withheld \$13,103.15 representing 25 percent of
13 plaintiff's total back payment (*see* Dkt. 35, Attachment 1, p. 2). Plaintiff's attorney has moved
14 for an attorney's fee of \$7,103.15, pursuant to 42 U.S.C. § 406(b) (*see* Motion, Dkt. 34, p. 1) and
15 will refund the 28 U.S.C. § 2412 ("EAJA") fee of \$4,270.05 (*see* Dkt. 33) to plaintiff following
16 receipt of the 42 U.S.C. § 406(b) award. *See Parish v. Comm'r. Soc. Sec. Admin.*, 698 F.3d
17 1215, 1221 (9th Cir. 2012).

18 Based on plaintiff's motion and supporting documents (*see* Dkts. 34, 35-1, 35-2, 35-3,
19 36), and with no objection from defendant (Dkt. 37), it is hereby ORDERED that attorney's fees
20 in the amount of \$7,103.15 be awarded to plaintiff's attorney pursuant to 42 U.S.C. § 406(b).

21 Dated this 23rd day of October, 2015.

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23 

24 J. Richard Creatura
United States Magistrate Judge